

ENTERED

November 19, 2018

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

VALLEY COMMERCIAL CAPITAL, LLC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. H-18-878
	§	
N795FM, LLC, and PHILLIP RIVERA, SR.	§	
	§	
Defendants.	§	

ORDER

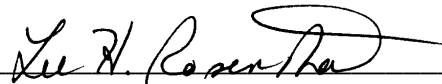
Valley Commercial Capital sued N795FM, LLC and Phillip Rivera, Sr., alleging that they failed to pay under a 2013 loan agreement. (Docket Entry No. 1). Valley Commercial Capital sought enforcement of that loan agreement, its related security agreement with N795FM identifying a 1978 Israel Aircraft as collateral, and its guaranty agreement with Rivera. Valley Commercial moved for summary judgment on its breach-of-contract claims, but it did not seek summary judgment on whether it is entitled to the 1978 Israel Aircraft through the defendants' default. (Docket Entry No. 18). This court granted summary judgment for Valley Commercial Capital on its breach-of-contract claims and ordered Valley Commercial Capital to file a proposed final judgment. (Docket Entry No. 22).

Valley Commercial Capital filed a proposed final judgment, (Docket Entry No. 23), and the court entered final judgment on November 13, (Docket Entry No. 24). The final judgment ordered N795FM to turn over possession of the 1978 Israel Aircraft Model 1124 airplane that is the subject of the parties' security agreement. (*Id.*). The parties, however, addressed only the breach-of-contract claims in their summary judgment briefs, and Rivera and N795FM deny in their answer that under the loan's terms Valley Commercial Capital is entitled to possession of the aircraft in the

event of default. (*See* Docket Entry Nos. 1, 4).

The entry of final judgment is vacated. (Docket Entry No. 24). The parties are ordered to file a supplemental submission on this issue, of no more than five pages. Valley Commercial Capital must file a motion for a ruling on this issue no later than November 30, 2018. Rivera and N795FM must respond no later than December 14, 2018.

SIGNED on November 19, 2018, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lee H. Rosenthal", is written over a horizontal line.

Lee H. Rosenthal
Chief United States District Judge